

H. R. 5425

Status:

The Subcommittee on Foreign Operations and Government Information of the House Government Operations Committee is marking up H. R. 5425.

Provision:

The bill amends the Freedom of Information Act (5 USC 552) by:

- (1) requiring a court review in camera of any records to determine the sufficiency of an exemption claimed under the Act, including classified material (section 1 (d)(1) and (2)). This overrules the Supreme Court decision in the case of Representative Patsy Mink v. EPA, 35 L Ed 2d 119, which precluded a court review of classified material.
- (2) requiring any agency to provide any information or records requested by Congress or any committee of Congress (section 3).

- (3) requiring only a "reasonable" description of a document requested rather than the present "identifiable records" (section 1 (d)), and requiring each agency to submit an annual report to the Congress on the number of requests received and action taken (section 4).

Problem:

- (1) A court determination under the bill overruling a determination by the Director could directly conflict with the responsibility imposed upon the Director by proviso in section 102 (d)(3) of the National Security Act of 1947:

"And provided further, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;...."

(2) Complete access to all CIA information by the current³⁴⁷ committees and subcommittees in the Congress increases the possibility of compromising sensitive intelligence sources and methods.

Proposed Amendment for H. R. 5425:

(1) Amend section 2 by adding at the end of line 6, page 4, the underscored words: "In the case of any agency records which the agency claims are within the purview of subsection (b)(1), such in camera investigation by the court shall be of the contents of such records in order to determine if such records, or any part thereof, cannot be disclosed because such disclosure would be harmful to the national defense or foreign policy of the United States. The preceding examination and investigation shall not apply to agency records involving matters under section (b), relating to the responsibility for protecting intelligence sources and methods from unauthorized disclosure under section 403 and 403 (G) of title 50, United States Code."

(2) Amend section 3 by inserting after the word "Congress" on line 5, page 6, the underscored words: "(2)(a) Notwithstanding subsection (b), any agency shall furnish any information or records to Congress or any committee of Congress within the jurisdiction of such committee promptly upon written request to the head of such agency by the Speaker of the House of Representatives, the President of the Senate, or the chairman of any such committee, as the case may be.